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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT	PAPER NUMBER
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1619

MAIL DATE	DELIVERY MODE
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12/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/749,036	Applicant(s) FERRARI ET AL.	
	Examiner JYOTHSNA A. VENKAT	Art Unit 1619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/2/09</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 121,132,137,143,144,147,153,157,158,161,166,169,170,172,177-180,183,218,219,221 and 223.

Continuation of Disposition of Claims: Claims rejected are 121,132,137,143,144,147,153,157,158,161,166,169,170,172,177-180,183,218,219,221 and 223.

DETAILED ACTION

Receipt is acknowledged of amendment, , IDS and remarks filed on 9/2/09. Receipt is also acknowledged of Exhibit 1 - Expert Report of Robert Lochhead, Ph.D., submitted on December 15, 2006, in L'Oreal S.A.v. Estee Lauder Co., Civil Action No. 04-1660 (HAA) (D.N.J. filed Apr. 7, 2004); Exhibit 2 - Letter from the Cosmetic Toiletry and Fragrance Association ("CFTA") dated December 14, 1999; Exhibit 3 - Information Relevant to the Use and Availability of UNICLEAR 80/100; Exhibit 4- International Cosmetic ingredient Dictionary and Handbook ("CTFA") 9th ed., p. 1654 (2002).

Status of claims

Claims 1-120,122-131,133-136,138-142,145-146,148-152,154-156,159-160,162- 165, 167-168, 171,173-176, 181-182, 184-217, 220, 222 and 224-287 have been cancelled. Claims 121,132, 137, 143,144, 147, 153, 157-158, 161, 166, 169-170, 172, 177-180, 183, 218-219, 221, and 223 are examined in the application.

The following new ground of rejection is necessitated by the amendment.

Claim Rejections - 35 USC § 112

Claim 132 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is lack of written description rejection for claim 132, which is a mixture of ethylenediamine/stearyl dimer dilinoleate copolymer and ethylenediamine/stearyl dimer tallate copolymer. Claim 132 is dependent on claim 121 and claim 121 recites that the two species are

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in Markush group format. Claim 132 recites that the structuring polymer comprises both the species and this implies “mixture of two species”. Description for genus is not a description for species.

In accordance with MPEP 714.02, applicants’ should specifically point out support for the mixture of species.

Claim 132 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 132 lacks antecedent basis and this claim does not limit the scope of claim 121. Claim 121 recites that the two species drawn to structuring polymer are in Markush group format. Note that claim 121 recites the Markush format “chosen from”. Claim 132 recites that the structuring polymer comprises both the species. Claim 132 lacks clarity and it is ambiguous. What is the scope of claim 121 and what is the scope of claim 132?

Claim Rejections - 35 USC § 112

Claims 121,132, 137, 143,144, 147, 153, 157-158, 161,166, 169-170, 172, 177- 180, 183, 218-219, 221, and 223 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **This is new matter rejection.**

There is no support in the specification for claims drawn to the species belonging to structuring polymer, which is “**ethylenediamine/stearyl dimer tallate copolymer**”.

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Specification at page 15, ll 3-13 teaches:

“Non-limiting examples of an at least one polyamide polymer which may be used in the composition according to the present invention include the commercial products sold by Arizona Chemical under the names Uniclear 80 and Uniclear 100. These are sold, respectively, in the form of an 80% (in terms of active material) gel in a mineral oil and a 100% (in terms of active material) gel. These polymers have a softening point ranging from 88°C to 94 °C, and may be mixtures of copolymers derived from monomers of (i) C36 diacids and (ii) ethylenediamine, and have a weight-average molecular mass of about 6000. Terminal ester groups result from esterification of the remaining acid end groups with at least one alcohol chosen from cetyl alcohol and stearyl alcohol. A mixture of cetyl and stearyl alcohols is sometimes called cetylstearyl alcohol”.

Initially it would appear that Uniclear® 80 and Uniclear® 100 refer to two products containing the same polymer base. The specification describes sources of diacids as resulting from the reaction of any of oleic acid, linoleic acid and linolenic acid with another compound containing 14 to 26 carbon atoms. Diacids are known in the art to result from the polymerization of unsaturated fatty acids (see US 5,783,657 at column 5).

The specification teaches the species, which can be formed from (i) C36 diacids and ethylenediamine and the terminal ester groups result from esterification of the remaining acid end groups can be with cetyl alcohol or the species can be formed from (ii) C36 diacids and ethylenediamine and the terminal ester groups result from esterification of the remaining acid end groups can be with stearyl alcohol or the species can be formed from (ii) C36 diacids and ethylenediamine and the terminal ester groups result from esterification of the remaining acid

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end groups can be with a mixture of cetyl and stearyl alcohols also known as cetylstearyl alcohol.

In response to Rule 105 request, applicants' submit as Exhibit 1 a redacted version of confidential proprietary documents from the Assignee Company (5/19/08). See below

Réf. Commerciale	Fabricant / Distributeur
UNICLEAR 100 VG	REDACTED
(DGT) UNICLEAR 100 VG	
Nom chimique R.A.D :	CONDENSAT DIACIDE EN C36 HYDROGENE ETHYLENE DIAMINE, ESTERIFIE PAR ALCOOL STEARYLIQUE (PM: ENVIRON 4000) ETABLISE (ANOX 20)
Nom INCI USA :	ETHYLENEDIAMINE/STEARYL DIMER DILINOLEATE COPOLYMER

The redacted document shows that Uniclear®100VG is also known as ethylenediamine stearyl dimer dilinoleate copolymer and this species is described since linoleic acid is 18 carboxylic diacid and the dimer acid is C36 carboxylic acid.

However, the first page of the redacted document does not state that Uniclear®100 V is ethylenediamine/tall oil dimer acid/stearyl alcohol copolymer (emphasis added), which is ethylenediamine/stearyl dimer tallate copolymer . Compare page 2 to page1.

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REDACTED

Nom Chimique : CONDENSAT DIACIDE EN C36 HYDROGENE/ETHYLENE DIAMINE, ESTERIFIE PAR
ALCOOL STEARYLIQUE

Nom CTFA :

REDACTED

Références commerciales

Références commerciales	Fournisseurs
UNICLEAR 100 V	REDACTED

REDACTED

Numéro de CAS	Nom CTFA substance	Nom européen substance	% sub.	Rôle	Type	Color index	% etiq.	N° cines
REDACTED	ETHYLENEDIAMINE/TALL OIL DIMER ACID/STEARYL ALCOHOL COPOLYMER				REDACTED			
	REDACTED							

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The preceding provides evidence that UNICLEAR 100V and UNICLEAR 100VG appear to be different products with the former a product resulting from the polymerization of linoleic acid and the latter a product resulting from polymerization of tall oil unsaturated fatty acids and one cannot conclude that any composition whose name includes UNICLEAR® necessarily includes the same polymer.

Applicants' in response to Rule 105 request also point out to Exhibit 1 submitted on 2/14/08. Exhibit 1 corresponds to International Cosmetic Ingredient Dictionary (CTFA, page 606, 2002) and this exhibit was submitted to show support for the amendment that recites the two species namely **ethylenediamine/stearyl dimer tallate copolymer** and **ethylenediamine/stearyl dimer dilinoleate copolymer**.

CTFA submitted on 2/14/08 is after the filing date of the instant application. Page 606 of CTFA states that ethylenediamine/stearyl dimer dilinoleate copolymer is a copolymer of ethylenediamine and stearyl dimer dilinoleate monomers and further reciting that a trade name for ethylenediamine/stearyl dimer dilinoleate copolymer is Uniclear®. The same page also recites that ethylenediamine/stearyl dimer tallate copolymer is a copolymer of ethylenediamine and tall oil dimer acid monomers, end blocked with stearyl alcohol and further recites that a trade name for ethylenediamine/stearyl dimer tallate copolymer is Uniclear®.

Thus CTFA only identifies Uniclear® and does not distinguish between Uniclear® 80, Uniclear® 100, Uniclear® 100V or Uniclear® 100VG.

In this regard the CTFA website states: *Trade Names are unique identifiers that are assigned to a cosmetic ingredient by the manufacturer or supplier of that ingredient. These*

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names are often designed to reflect a particular company's product line, and do not necessarily have any direct relationship to the chemical nature of the ingredient.

Applicant's redacted documents clearly indicate a plurality of polymers associated with UNICLEAR as of applicant's filing date.

This is made even clearer in the following:

Applicants' attention is drawn to Arizona Chemical Company website.

Air Care / Personal Care Gellants

Product	Softening Point, C, Ring & Ball	Viscosity cps/mPa-s @ 160 C	Acid No.	Color, Gardner	Amine No.	Flash Point, F
Uniclear® 100	88-100	90-140	12	1-2	≤1.0	520
Uniclear® 100LM	75-80	90-140	12	1-2	≤1.0	520
Uniclear® 100VG*	88-98	100-160	12	1-3	≤1.0	520
Sylvaclear™ C75V*	70-80	90-160	25	1-3	≤1.0	508

* Vegetable dimer based resin

The softening point and viscosity are different for Uniclear ® 100 and Uniclear ® 100 VG. Search on Arizona Chemical Company website did not show softening point and viscosity for Uniclear ® 100 V described at top portion of page 1 of the redacted copy. There is no Uniclear ® 80 described at page 15 of the specification on the website. Uniclear ® 100 VG has softening point, which is 88-98. Specification describes the softening point ranging from 88-94. The softening point and viscosity for Uniclear ® 100 and Uniclear ® 100LM are different from Uniclear ® 100 VG.

This evidence suggests that there are unspecified differences between the various UNICLEAR® products and that absent objective evidence one cannot conclude that the

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reference to UNICLEAR 100 in the instant specification refers to **ethylenediamine/stearyl dimer tallate copolymer.**

A further complication is that the CTFA from 2002 clearly sets forth that the UNICLEAR® is associated with both the dilinoleate species and the tallate species.

Therefore there is no support in the specification for species claimed, which is **ethylenediamine/stearyl dimer tallate copolymer.**

Response to Arguments

Applicant's arguments filed 9/2/09 have been fully considered but they are not persuasive.

Applicants' argue that the written description at page 15, ll 3-13 readily conveys a copolymer of ethylenediamine and tall oil dimer acid monomers end blocked with stearyl alcohol such as the ethylenediamine/stearyl dimer tallate copolymer recited in independent claims 121, 161, 218, 219, 221 and 223.

Applicants' also argue:

“In addition, Applicants submit herewith as Exhibit 1, a redacted copy of an Expert Report of Robert Lochhead, Ph.D., submitted on December 15, 2006, in L’Oreal S.A.v. Estee Lauder Co., Civil Action No. 04-1660 (HAA) (D.N.J. filed Apr. 7, 2004), and as Exhibit 2, a letter from the Cosmetic Toiletry and Fragrance Association ("CTFA") dated December 14, 1999, and relied upon in the Expert Report. At paragraph 14 of his report, Dr. Lochhead states that persons skilled in the art reading the disclosure regarding Uniclear® in the specification of the patent at issue (which

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corresponds to the present specification) would have understood that the inventors contemplated use of ethylenediamine/stearyl dimer tallate copolymer as a structuring polymer. Applicants submit that the teachings provided in the information already of record, as well as the teachings provided by the additional evidence submitted herewith, establish that the ethylenediamine/stearyl dimer tallate copolymer was known by those of ordinary skill as Uniclear® at the time of filing of the present application, December 28, 2000. Moreover, a trademarked product may cover a range of products containing the same copolymer family, but having different concentrations, in different solvents or with different additives, leading to different physicochemical properties. As mentioned in the specification, Uniclear 80 and Uniclear 100 have different formulations. For example, Uniclear 80 and Uniclear 100 contain different concentrations of active material. Such difference in concentrations may explain the different softening points discussed by the Examiner at page 7 of the Office Action. Expert Report, which relies upon the CTFA's letter, which is submitted herewith, is further evidence that the ethylenediamine/stearyl dimer tallate copolymer was known by those of ordinary skill as Uniclear® at the time of filing of the present application".

In response to the above argument, expert report which relies upon CTFA's letter may assert that the trade name UNICLEAR® refers to a tallate copolymer. However, the evidence from the redacted documents submitted by applicants' clearly indicates that UNICLEAR 100V

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and UNICLEAR 100VG are different polymers and one cannot conclude that any composition whose name includes UNICLEAR® necessarily includes the same polymer. Description at page 15, ll 3-13 does not readily convey ethylenediamine/stearyl dimer tallate copolymer recited in independent claims 121, 161, 218, 219, 221 and 223. A further complication is that the CTFA from 2002 clearly sets forth that the UNICLEAR® is associated with both the dilinoleate species and the tallate species. The redacted document shows that Uniclear®100VG is also known as ethylenediamine stearyl dimer dilinoleate copolymer and this species is described since linoleic acid is 18 carboxylic diacid and the dimer acid is C36 carboxylic acid. There is no description in the specification for tallow oil. A further complication is example described in copending application 10/494,864, which describes Uniclear 100V as polycondensate of C36 dimer acid and of ethylene diamine esterified with C16/C18 alcohol. C16/C18 alcohol is not stearyl alcohol since the claimed species is **ethylenediamine/stearyl dimer tallates copolymer and this is formed from stearyl alcohol.**

In conclusion there is no explicit description for the species or explicit description that describes the species with the corresponding trade name. Therefore lack of written description for claimed species “ethylenediamine/stearyl dimer tallate copolymer” is deemed proper.

Claim Rejections - 35 USC § 103

Claims 121, 132, 137, 143, 144, 147, 153, 157-158, 161, 166, 169- 170, 177- 180, 183, 218- 219, 221, and 223 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U. S. Patents 5,783,657 ('657) and 6,019,962 ('962).

Claims 172 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U. S. Patents 5,783,657 ('657) and 6,019,962 ('962) as applied to claims

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121,132, 137, 143, 144, 147, 153, 157-158, 161,166, 169-170, 177- 180, 183, 218-219, 221, and 223 above, and further in view of U. S. Patent 4,699, 924 ('924).

Applicants' address both the rejections together.

Response to Arguments

Applicant's arguments filed 9/2/09 have been fully considered but they are not persuasive.

Applicants' argue:

"The fact that a claimed species or subgenus is encompassed by a prior art genus is not sufficient by itself to establish a prima facie case of obviousness." M.P.E.P. §2144.08 (citing In re Baird, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994) ("The fact that a claimed compound may be encompassed by a disclosed generic formula does not render the compound obvious."). While Pavlin discloses an ester-terminated polyamide (ETPA) of formula (I), there is no disclosure of the claimed species of structuring polymers, e.g., Uniclear, recited in independent claims 121, 161, 218, 219, 221 and 223. Moreover, there is no teaching or suggestion in Pavlin that would direct one of ordinary skill in the art to choose Uniclear rather than one of the other structuring polymers encompassed by formula (I). In fact, Pavlin would direct one of ordinary skill in the art away from Uniclear.

Uniclear is derived from the condensation polymerization of: about 76.62 wt% of a dimer acid (Empol 1011), about 5.87 wt% of an amine (ethylene

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diamine), and about 17.51 wt% of an alcohol (Alfol-18, i.e., stearyl alcohol).² See Information Relevant to the Use and Availability of UNICLEAR 80/100, attached herewith as Exhibit 3. From a review of Pavlin, the closest ester-terminated polyamide (ETPA) to Uniclear is Example 8. See Pavlin, col. 20, line 55 to col. 21, line 14. Example 8 is an ETPA derived from 76.4 wt% of the dimer acid Empol 1008, 5.9 wt% of ethylene diamine, and 19.7 wt% of stearyl alcohol. See id. Example 8, however, reports that gels formed from this Uniclear-like structurant made from 19.7 wt% stearyl alcohol were opaque, not clear. See id. at col. 21, lines 12-14. Further, Example 8 warns that "[t]his example shows that there is a lower limit to the alcohol concentration that can be used in an ETPA and still obtain a transparent gel therefrom." See id. at col. 20, lines 60-62. In view of the fact that Uniclear is an ETPA that is derived from only about 17.51 wt% stearyl alcohol, it is below the lower limit taught by Pavlin for making clear gels. Accordingly, a person of ordinary skill in the art would have been directed away from using Uniclear as the structuring polymer by this disclosure in Pavlin".

In response to the above argument admitted by applicants' patent '657 under example 8, clearly teaches species formed from ethylenediamine, stearyl alcohol and polymerized dimer acid. Patent at col.8, line 51 teaches polymerized C36 dimer acid and this is the only exemplified polymerized dimer acid with carbon atoms. Patent at col.9, ll 9-10 teaches preferred acid which is tall oil fatty acids. Preferred mono alcohols include stearyl alcohol and cetyl

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alcohol at col.8, ll 6-8. Example 8 teaches ethylene diamine and thus one skilled in the art would prepare the claimed species from preferred reactants to form the ETPA resin which has gel like consistency. The claimed species is not picked from laundry list instead from preferred reactants and exemplified reactants. Example 8 might teach that the gel was hard, however table 12 also teaches that stearyl terminated polyamide forms clear gels. Accordingly, a person of ordinary skill in the art would have been motivated from using Uniclear as the structuring polymer by the disclosure in patent '657 by using polymerized C36 dimer acid, ethylene diamine and terminated with stearyl alcohol so that clear gels are obtained.

The claims are prima facie obvious within the meaning of 35 U. S. C. 013 over the references cited under 103 rejections.

Double Patenting

Claims 121, 161, 218, 221 and 223 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,716,420 ('420) in view of U. S. Patent 6,019,962 ('962).

Claims 121, 161, 218, 221 and 223 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6,835,399 ('399).

Claims 121, 161, 218, 221 and 223 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,869,594 ('594).

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Claims 121, 161, 218, 221 and 223 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,881,400 ('400).

Claims 121, 161, 218, 221 and 223 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 7 of U.S. Patent No. 6,979,469 ('469).

Claims 121, 161, 218, 221 and 223 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 7,008,619 ('619).

Claims 121 and 161 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 24 and 27 of U.S. Patent No. 7,008,629 ('629).

Claim 223 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 7 of U.S. Patent No. 7,011,823 ('823).

Claims 121 and 161 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 of U.S. Patent No. 7,052,681 ('681).

Claims 121, 161 and 172 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 9 of U.S. Patent No. 7,144,582 ('582).

Claims 121 and 161 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,276,547 ('547).

Claims 121, 161 and 218 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 19-21 and 28-29 of U.S. Patent No. 7,314,612 ('612).

Claim 218 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 31 of U.S. Patent No. 7, 410, 636 ('636).

All the above obviousness-type double patenting rejections are maintained and applicants' in the response dated 9/2/09 at page 18 agree with the double patenting rejection and state that terminal disclaimer will be submitted the time of allowable subject matter.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EYLER YVONNE (BONNIE) can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /
Primary Examiner, Art Unit 1619